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Caesars Entertainment, Inc.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICHARD GIBSON, and ROBERTO MANZO,

Plaintiffs,

v.

CENDYN GROUP, LLC, THE RAINMAKER
GROUP UNLIMITED, INC., CAESARS
ENTERTAINMENT INC., TREASURE
ISLAND, LLC, WYNN RESORTS HOLDINGS,
LLC, BLACKSTONE, INC., BLACKSTONE
REAL ESTATE PARTNERS VII L.P., JC
HOSPITALITY, LLC,

Defendants.

Case No. 2:23-cv-00140-MMD-DJA

**DECLARATION OF BORIS
BERSHTEYN IN FURTHER SUPPORT
OF DEFENDANTS' JOINT REPLY IN
SUPPORT OF THEIR MOTION
TO DISMISS THE FIRST AMENDED
CLASS COMPLAINT WITH
PREJUDICE**

1 I, Boris Bershteyn, declare as follows:

2 1. I am a partner at Skadden, Arps, Slate, Meagher & Flom LLP, admitted *pro hac vice*
3 as counsel for Defendant Caesars Entertainment, Inc. in the above-captioned matter. I have full
4 knowledge of the matters stated herein and could testify thereto.

5 2. In Defendants' Joint Motion To Dismiss the First Amended Class Complaint
6 ("FAC") With Prejudice, defendants identified certain errors in the calculations presented in chart
7 form in plaintiffs' FAC. (ECF No. 160 at 17.) Among other things, defendants pointed out that the
8 data behind three charts (ECF No. 144 ¶¶ 15, 214-15), shows that plaintiffs "falsely attribute 100%
9 price decreases to the Venetian for quarters in which they lack data." (ECF No. 160 at 17.)

10 3. In plaintiffs' Opposition to Defendants' Joint Motion To Dismiss the First Amended
11 Class Complaint With Prejudice, plaintiffs claim that they "do not attribute a 100% price decrease
12 to the Venetian in Q4 2020 for their analysis of Venetian prices. Rather, in Q4 2020, the Venetian,
13 which operates the hotel towers of the Palazzo and the Venetian, decided to temporarily close the
14 Palazzo tower and raised prices for the Venetian tower—shifting all of its business to that tower."
15 (ECF No. 167 at 22 n.80 (citations omitted).) Therefore, according to plaintiffs, they "have
16 calculated an average price change for the Venetian and the Palazzo (across the total capacity of
17 those hotel towers) and then used that for purposes of their analysis of Venetian pricing." (*Id.*)

18 4. Figure 1 below is a screenshot from Exhibit A, which is plaintiffs' data, with the
19 only alteration being that I highlighted cells Z16-17, AA16-17, AA36, and AA45 for ease of
20 reference.¹ As Figure 1 alleges, in 3Q20, the Venetian's price was \$155 (cell Z16) and the
21 Palazzo's price was \$134 (cell Z17). In 4Q20, plaintiffs claim that the Venetian price was \$171
22 and do not have any data for the Palazzo—purportedly because it was closed. (ECF No. 167 at 22
23 n.80.) Despite the indisputable fact that the average alleged Venetian price *increased* from \$145
24 (the average of \$155 and \$134) to \$171, plaintiffs calculate that the price *decreased* by 45% (cell
25 AA45). The reason is that plaintiffs' data, in effect, assumes that all the rooms at the Palazzo were
26 available to guests for free during the time it was closed—a facially inaccurate price decrease of
27 100% (cell AA36). Thus, calculations behind plaintiffs' charts (ECF No. 144 ¶¶ 15, 214-15),
28

¹ To make the screenshot more visible, I also hid columns F through Y.

mischaracterize a price increase at the Venetian towers as a 45% price decrease.

Figure 1:

	A	B	C	D	E	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM
1	Two charts on page 8, and page 130 of the First Amended Class Action Complaint for Case No. 2:23-cv-00140-MMD-DJA																		
2	Data sourced from: JP Morgan North American Equity Research Reports - Gaming Las Vegas Strip																		
3																			
4	Hotel	Chain	4Q14	1Q15	2Q15	3Q20	4Q20	1Q21	2Q21	3Q21	4Q21	1Q22	2Q22	3Q22	4Q22	1Q23	2Q23	3Q23	Average Daily Room Rate (\$)
5	Paris Las Vegas	Caesars Entertainment	157	163	164	102	92	89	146	201	172	196	235	214	331	318	238	240	
6	Bally's Las Vegas	Caesars Entertainment	104	121	120	69	60	56	110	161	145	131	173	137	215	200	167	142	
7	Flamingo Las Vegas	Caesars Entertainment	103	112	132	65	59	58	114	145	142	115	179	128	187	206	161	146	
8	Caesars Palace	Caesars Entertainment	234	226	250	161	148	145	227	369	311	328	381	335	470	445	355	365	
9	Harrah's Las Vegas	Caesars Entertainment	122	149	133	62	58	54	101	154	185	201	246	177	240	265	207	157	
10	Rio Hotel & Casino	Caesars Entertainment	98	124	130	59	48	44	75	92	111	83	107	66	95	119	79	65	
11	Planet Hollywood	Caesars Entertainment	142	153	152	95	77	72	133	182	152	173	196	137	269	256	186	188	
12	The Cromwell	Caesars Entertainment	261	239	99	129	136	211	296	301	274	362	294	430	428	316	339		
13	The Linq	Caesars Entertainment	166	123	80	70	68	124	160	143	145	199	137	215	229	156	172		
14	Wynn Las Vegas	Wynn Resorts	279	325	324	167	190	177	240	409	404	458	570	506	645	597	566	497	
15	Encore Las Vegas	Wynn Resorts	274	315	317	176	166	161	236	407	433	438	527	491	575	538	561	497	
16	Venetian	Las Vegas Sands, Inc.	248	259	294	155	171	229	263	316	331	369	534	321	454	424	323	317	
17	Palazzo	Las Vegas Sands, Inc.	264	289	286	134		229	271	316	331	369	534	321	454	424	323	317	
18	Treasure Island	Private	102	119	102	72	68	77	129	188	125	127	138	122	244	248	110	124	
19	Cosmopolitan Las Vegas	Private	250	281	270	187	190	162	247	357	342	366	405	349	493	480	337	335	
20	Tropicana Las Vegas	Private	128	166	158			45	94	142	133	129	167	138	214	195	148	167	
21																			
22	Hotel	Chain	4Q14	1Q15	2Q15	3Q20	4Q20	1Q21	2Q21	3Q21	4Q21	1Q22	2Q22	3Q22	4Q22	1Q23	2Q23	3Q23	
23	Paris Las Vegas	Caesars Entertainment		4%	1%	-9%	-10%	-3%	64%	38%	-14%	14%	20%	-9%	55%	-4%	-25%	1%	
24	Bally's Las Vegas	Caesars Entertainment		16%	-1%	5%	-13%	-7%	96%	46%	-10%	-10%	32%	-21%	57%	-7%	-17%	-15%	
25	Flamingo Las Vegas	Caesars Entertainment		9%	18%	2%	-9%	-2%	97%	27%	-2%	-19%	56%	-28%	46%	10%	-22%	-9%	
26	Caesars Palace	Caesars Entertainment		-3%	11%	-8%	-8%	-2%	57%	63%	-16%	5%	16%	-12%	40%	-5%	-20%	3%	
27	Harrah's Las Vegas	Caesars Entertainment		22%	-11%	-9%	-6%	-7%	87%	52%	20%	9%	22%	-28%	36%	10%	-22%	-24%	
28	Rio Hotel & Casino	Caesars Entertainment		27%	5%	2%	-19%	-8%	70%	23%	21%	-25%	29%	-38%	44%	25%	-34%	-18%	
29	Planet Hollywood	Caesars Entertainment		8%	-1%	-5%	-19%	-6%	85%	37%	-16%	14%	13%	-30%	96%	-5%	-27%	1%	
30	The Cromwell	Caesars Entertainment			-8%	-26%	30%	5%	55%	40%	2%	-9%	32%	-19%	46%	0%	-26%	7%	
31	The Linq	Caesars Entertainment			-26%	5%	-13%	-3%	82%	29%	-11%	1%	37%	-31%	57%	7%	-32%	10%	
32	Wynn Las Vegas	Wynn Resorts		16%	0%	-23%	14%	-7%	36%	70%	-1%	13%	24%	-11%	27%	-7%	-5%	-12%	
33	Encore Las Vegas	Wynn Resorts		15%	1%	-39%	-6%	-3%	47%	72%	6%	1%	20%	-7%	17%	-6%	4%	-11%	
34	Venetian	Las Vegas Sands, Inc.		4%	14%	35%	10%	34%	15%	20%	5%	11%	45%	-40%	41%	-7%	-24%	-2%	
35	Palazzo	Las Vegas Sands, Inc.		9%	-1%	17%	-100%		18%	17%	5%	11%	45%	-40%	41%	-7%	-24%	-2%	
36	Treasure Island	Private		17%	-14%	0%	-6%	13%	68%	46%	-34%	2%	9%	-12%	100%	2%	-56%	13%	
37	Cosmopolitan Las Vegas	Private		12%	-4%	-7%	2%	-15%	52%	45%	-4%	7%	11%	-14%	41%	-3%	-30%	-1%	
38	Tropicana Las Vegas	Private		30%	-5%				109%	51%	-6%	-3%	29%	-17%	55%	-9%	-24%	13%	
39																			
40																			
41	Hotel		4Q14	1Q15	2Q15	3Q20	4Q20	1Q21	2Q21	3Q21	4Q21	1Q22	2Q22	3Q22	4Q22	1Q23	2Q23	3Q23	
42	Treasure Island			17%	-14%	0%	-6%	13%	68%	46%	-34%	2%	9%	-12%	100%	2%	-56%	13%	
43	Average Caesars			12%	-1%	-5%	-7%	-4%	77%	39%	-3%	-2%	29%	-24%	53%	3%	-25%	-5%	
44	Average Wynn			16%	0%	-31%	4%	-5%	41%	71%	3%	7%	22%	-9%	22%	-7%	0%	-12%	
45	Tropicana Las Vegas			30%	-5%				109%	51%	-6%	-3%	29%	-17%	55%	-9%	-24%	13%	
46	Cosmopolitan Las Vegas			12%	-4%	-7%	2%	-15%	52%	45%	-4%	7%	11%	-14%	41%	-3%	-30%	-1%	
47	Average LVS - Venetian/Palazzo			7%	6%	26%	-45%	34%	17%	18%	5%	11%	45%	-40%	41%	-7%	-24%	-2%	
48																			
49	Average Price Growth		2015-2023	2015-2019															
50	Treasure Island		4.28%	2.41%															
51	Caesars		3.43%	1.90%															
52	Wynn		3.70%	1.86%															
53	Tropicana		7.67%	1.62%															
54	Cosmopolitan*		2.97%	1.42%															
55	Venetian		1.36%	0.23%															
56	*Data for Cosmopolitan are only considered up until 2Q22, as after the hotel was acquired by the MGM group.																		

5. Attached hereto is Exhibit A, a true and correct copy of the complete Microsoft Excel file provided by plaintiffs' counsel on February 6, 2024 as "backup data" for the charts displayed at paragraphs 15, 16, 213-15, 217-20, 222, and 240 of the FAC.

1 I declare under penalty of perjury under 28 U.S.C. § 1746 and the law of the State of
2 Nevada, that the foregoing is true and correct.

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4 Dated: March 20, 2024

/s/ Boris Bershteyn

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